

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 11, 2018

Elisabeth A. Shumaker
Clerk of Court

WESTERN WATERSHEDS PROJECT, et
al.,

Petitioners - Appellees,

v.

No. 18-8087

VICKI CHRISTIANSEN, Chief, United
States Forest Service, et al.,

Respondents - Appellants.

STATE OF WYOMING,

Intervenor - Respondent.

ORDER

This matter is before the court following review of the appellants' docketing statement. We have identified a possible jurisdictional defect with this appeal. Accordingly, the court is considering this appeal for summary disposition. 10th Cir. R. 27.3(B).

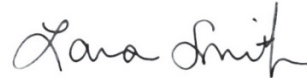
The United States respondents appeal the district court's September 14, 2018 order vacating and remanding the Forest Service's "decision to amend the existing 2008 long-term special use permit to reauthorize the continued use of National Forest Service lands for winter elk feedground activities at Alkali Creek Feedground." (Memorandum

Decision and Order, 9/14/18, Dist. Ct. Docket No. 67.) To assist with the court's determination of appellate jurisdiction, we direct the appellants to file a memorandum brief addressing the following jurisdictional question: whether the district court's order vacating the agency's decision and remanding to the agency for additional proceedings is a final and appealable order? *See Miami Tribe of Okla. v. United States of America*, 656 F.3d 1129, 1139 (10th Cir. 2011) (“[U]nder § 1291, a ‘remand by a district court to an administrative agency for further proceedings is ordinarily not appealable because it is not a final decision.’ *Bender v. Clark*, 744 F.2d 1424, 1426–27 (10th Cir. 1984).”).

The appellants' memorandum brief must be filed within 14 days of the date of this order. *See* 10th Cir. R. 27.3(B) (discussing requirements for memorandum briefs).

Briefing on the merits of this appeal is tolled pending further order of this court. *Id.* 27.3(C).

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith
Counsel to the Clerk